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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,418	02/06/2001	Grant D. Green	GDG01.US1	6962
7590	03/22/2004		EXAMINER	
Grant D. Green 440 San Domingo Way Los Altos, CA 94022-2143			WEINSTEIN, STEVEN L	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/777,418	GREEN, GRANT D.
	Examiner	Art Unit
	Steven L. Weinstein	1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 October 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,8-10,19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,8-10,19, and 21-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 8-10, 19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Institutional Distribution (v. 27, No. 6, page 158, May 15, 1991) and Star Tribune (November 22, 89, page 4T), in view of Woman's Day Encyclopedia of Cookery. (Vol. 11, page 1784, 1966), Family Circle, Illustrated Library Of Cooking (pages 479, 480, 1972), Advertising Age (August 21, 1978, page 65), Saulsbury (4,335,609), and Slagg (4,840,239), further in view of Pichardo (2,745,751). Forbes (June 2, 1997, page 196) and Baltimore Morning Sun (August 4, 1997, page 53), for the reasons fully and clearly detailed in the Office action mailed July 8, 2002.

All of applicant's remarks filed October 21, 2003 have been fully and carefully considered but are not found to be convincing essentially for the reasons of record clearly set forth in the Office action mailed May 22, 2003.

The packaged brown sugar disclosed in the art, taken as a whole, is loosely packed brown sugar. There is no evidence that this sugar has been press formed into say a tablet. As discussed previously in detail, no matter what the nature of the product, if one is going to market a product by a volume measure, such as a teaspoonful, and one is not performing or molding the product to impart that volume to the product, then one would have had to predetermine how much of the product is necessary to form the

desired volume of the product. To determine the desire volume of the product, with a free flowing material, whether it clumps, partially clumps, or does not clump at all, one would have had to fill the product into a volume measure and tamp it down so that there is no void space. Solids are not like liquids. They have a certain bulk density and to determine the amount of product per volume, voids must be eliminated. Once it is determined that one has a completely full volume of product, its weight can be determined per volume so that one could employ commercial packaging and know that a certain weight of product has been packaged which equals a certain weight. These teachings are all in the art taken as a whole. Applicant has not disclosed how he intends to package his product but it is assumed he would not form a pressed volume of product because he would have to disassemble the product if he wanted a loosely package product. Note, too, once it was known to provide packaged products such as sugar in volume amounts for handy and efficient use, such as teaspoon amounts of sugar for food preparation, the particular conventional volume amounts packaged for the particular conventional food preparation desired is seen to have been an obvious matter of choice in view of the art taken as a whole.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the examiner should be directed to Steven L. Weinstein whose telephone number is (571) 272-1410. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (571) 272-1201.

S. Weinstein/dh
March 8, 2004

Corrected

March 11, 2004
3/16


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
3/18/04